

**MINUTES OF
FAIRFAX COUNTY PLANNING COMMISSION
THURSDAY, MARCH 23, 2006**

UNAPPROVED
APRIL 26, 2006

PRESENT: Walter L. Alcorn, Commissioner At-Large
John R. Byers, Mount Vernon District
Frank A. de la Fe, Hunter Mill District
Suzanne F. Harsel, Braddock District
James R. Hart, Commissioner At-Large
Nancy Hopkins, Dranesville District
Ronald W. Koch, Sully District
Kenneth A. Lawrence, Providence District
Rodney L. Lusk, Lee District
Peter F. Murphy, Jr., Springfield District
Laurie Frost Wilson, Commissioner At-Large

ABSENT: Janet R. Hall, Mason District

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The meeting was called to order at 8:15 p.m. by Chairman Peter F. Murphy, Jr., in the Board Auditorium of the Fairfax County Government Center at 12000 Government Center Parkway, Fairfax, Virginia 22035.

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COMMISSION MATTERS

Commissioner Lusk announced that the Fairfax County Capital Improvement Program Mark-Up would be held on Wednesday, March 29, 2006. He noted that the Planning Commission's Capital Improvement Program Committee had met earlier this evening to discuss the proposed projects.

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Commissioner Byers MOVED THAT THE PUBLIC HEARING ON 2232-V05-22, OMNIPOINT COMMUNICATIONS CAP OPERATIONS LLC, BE DEFERRED TO A DATE CERTAIN OF MAY 3, 2006.

Commissioner Alcorn seconded the motion which carried unanimously with Commissioner Hall absent from the meeting.

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ORDER OF THE AGENDA

Secretary Harsel established the following order of the agenda:

1. PCA-C-696-05 - DSV DULLES FOX MILL LP
2. PCA 1998-DR-049-03/FDPA 1998-DR-049-03 - WILLIAM A. AND SUZANNE S. MORAN
3. ZONING ORDINANCE AMENDMENT (MODIFICATIONS TO FENCE AND YARD REQUIREMENTS)
4. SE 2005-PR-009 - SUNRISE ASSISTED LIVING LIMITED PARTNERSHIP
5. RZ 2005-MV-001/FDP 2005-MV-001 - BROOKFIELD RIDGE ROAD, LLC

This order was accepted without objection.

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PCA-C-696-05 - DSV DULLES FOX MILL LP - Appl. to amend the proffers for RZ-C-696 previously approved for mixed use development to permit a modification of approved proffers relating to road improvements. Located S. and E. of Sunrise Valley Dr. and S. of the Dulles Airport Access Rd. on approx. 51.06 ac. of land zoned PDC. Comp. Plan Rec: Mixed Use at .5 - 1.0 FAR. Tax Map 15-4 ((5)) 2A, 2B, 3, 4, 5, 8A; 16-1 ((25)) 1. HUNTER MILL DISTRICT. PUBLIC HEARING.

Jason Heinberg, with Walsh, Colucci, Lubeley, Emrich & Terpak, PC, reaffirmed the affidavit dated January 9, 2006. Commissioner Hart disclosed that his law firm, Hart & Horan, PC, had a pending case with Mr. Heinberg's law firm but there was no financial relationship and it would not affect his ability to participate in this case.

Commissioner de la Fe asked that Chairman Murphy ascertain whether there were any speakers for this application. There being none, he asked that presentations by staff and the applicant be waived and the public hearing closed. No objections were expressed; therefore, Chairman Murphy closed the public hearing and recognized Commissioner de la Fe for action on this case. (A verbatim excerpt is in the date file.)

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Commissioner de la Fe MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF PCA-C-696-5, SUBJECT TO THE EXECUTION OF THE PROFFERS DATED FEBRUARY 10, 2006.

Commissioner Hopkins seconded the motion which carried unanimously with Commissioner Hall absent from the meeting.

Commissioner de la Fe MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT IT REAFFIRM ALL PREVIOUSLY APPROVED WAIVERS RELATIVE TO THE BARRIER REQUIREMENT ALONG THE PORTION OF THE SOUTHERN BOUNDARY WHERE IT ABUTS THE EXISTING MULTI-FAMILY DEVELOPMENT, THE 600-FOOT MAXIMUM LENGTH OF PRIVATE STREETS, AND THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT IT REAFFIRM ALL PREVIOUSLY APPROVED MODIFICATIONS RELATIVE TO THE LOADING SPACE REQUIREMENT, AS REQUIRED IN SECTION 11-200 OF THE ZONING ORDINANCE, THE TRANSITIONAL SCREENING REQUIREMENT ALONG THE PORTION OF THE SOUTHERN BOUNDARY WHERE IT ABUTS THE EXISTING MULTI-FAMILY DEVELOPMENT, THE REQUIREMENTS FOR SECONDARY USES PER SECTION 6-206 OF THE ZONING ORDINANCE TO PERMIT AN INCREASE IN THE GROSS FLOOR AREA OF THE RESIDENTIAL USES, AS PREVIOUSLY DEPICTED IN THE PREVIOUS CDPA AND FDPA, THE CONSTRUCTION MATERIALS FOR SIDEWALKS PER SECTION 8-0100 OF THE PUBLIC FACILITIES MANUAL, AND THE CONSTRUCTION MATERIALS FOR TRAIL REQUIREMENTS PER SECTION 8-0200 OF THE PFM.

Commissioner Hopkins seconded the motion which carried unanimously with Commissioner Hall absent from the meeting.

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PCA 1998-DR-049-03/FDPA 1998-DR-049-03 - WILLIAM A. AND SUZANNE S. MORAN - Appls. to amend the proffers and final development plan for RZ 1998-DR-049 previously approved for residential development to permit the consolidation of lots 8A and 9A resulting in an overall density of 5.92 dwelling units per acre (du/ac). Located on the S. side of Addington Dr. and W. of Evans Farm Rd. on approx. 15,648 sq. ft. of land zoned PDH-5. Comp. Plan Rec: 3-4 and 5-8 du/ac. Tax Map 30-1 ((30)) 8A and 9A. DRANESVILLE DISTRICT. PUBLIC HEARING.

William Moran, applicant, reaffirmed the affidavit dated February 23, 2006. There were no disclosures by Commission members.

Commissioner Hopkins asked that Chairman Murphy ascertain whether there were any speakers for this application. There being none, he asked that presentations by staff and the applicant be waived and the public hearing closed. No objections were expressed; therefore, Chairman Murphy closed the public hearing and recognized Commissioner Hopkins for action on this case. (A verbatim excerpt is in the date file.)

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Commissioner Hopkins MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF PCA 1998-DR-049-03, SUBJECT TO THE EXECUTED PROFFERS DATED MARCH 21, 2006.

Commissioners de la Fe and Byers seconded the motion which carried unanimously with Commissioner Hall absent from the meeting.

Commissioner Hopkins MOVED THAT THE PLANNING COMMISSION APPROVE FDPA 1998-DR-049-03, SUBJECT TO THE BOARD OF SUPERVISORS' APPROVAL OF PCA 1998-DR-049-03 AND THE ASSOCIATED CONCEPTUAL DEVELOPMENT PLAN.

Commissioners de la Fe and Byers seconded the motion which carried unanimously with Commissioner Hall absent from the meeting.

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ZONING ORDINANCE AMENDMENT (MODIFICATIONS TO FENCE AND YARD REQUIREMENTS) - To amend to Chapter 112 (the Zoning Ordinance) of the 1976 Code of the County of Fairfax, as follows: (1) To allow the Board of Supervisors in conjunction with rezoning or special exception approval for another use and the Board of Zoning Appeals (BZA) in conjunction with special permit approval for another use to modify the minimum yard requirements for certain existing structures and uses provided that the existing structure or use complied with the applicable yard requirements in effect when the use was established and that the yards have not been reduced to less than the required yards except by condemnation or acquisition for public purposes. (2) To allow the BZA to decrease the 10-foot yard requirement between off-street parking spaces and the front lot line and/or the 10-foot wide peripheral parking lot screening requirement in conjunction with special permit approval. (3) To allow the Board of Supervisors in conjunction with rezoning or special exception approval for another use and the BZA in conjunction with special permit approval for another use to increase the fence, wall, gate and/or gate post height and/or modify the location requirements provided that it can be demonstrated that the fence, wall, gate and/or gate post is in character with the existing development on the site, is harmonious with the surrounding development and will not adversely impact the use and/or enjoyment of any nearby property. (4) To clarify that accessory structure height is measured from the highest point of the structure to the lowest point of grade adjacent to the structure. (5) Pursuant to authority granted by *Virginia Code* Sect. 15.2-2286(A)(6), to establish an application fee of \$295 for special permits and special exceptions for modification of minimum yard requirements for certain

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existing structures. Copies of the full text are on file and may be reviewed at the Planning Commission Office, 12000 Government Center Parkway, Suite 330, Fairfax, Virginia 22035. For the convenience of the public, access to the full text will also be available for review at the County's website, www.fairfaxcounty.gov/dpz under the Zoning heading by clicking on Pending Zoning Ordinance Amendments. PUBLIC HEARING.

Donna Pesto, Zoning Administration Division (ZAD), Department of Planning and Zoning (DPZ), presented the staff report, a copy of which is in the date file. She noted that staff recommended approval of the Zoning Ordinance Amendment.

In response to questions from Commissioner Hart, Ms. Pesto explained that an existing structure or use that currently sat on a lot line had to demonstrate compliance with the minimum yard requirements in effect when the use had been established or prior to 1941 when the Zoning Ordinance had not existed. She noted that it must be demonstrated that the yards had not been reduced by condemnation or for acquisition of a right-of-way. Ms. Pesto indicated that this amendment only addressed fence, wall, gate and/or gate post height, or yard modifications that were requested in conjunction with a rezoning, special exception, or special permit application process for another use on the site. She pointed out that subsequent amendments would address standard homeowner improvements. She explained that modification to a fence height would not meet the criteria for a variance because all reasonable beneficial uses of the property would not be lost.

Responding to questions from Commissioner Wilson, Ms. Pesto indicated that there was no height limitation for gate posts; however, gates and gate posts exceeding four feet in height were not permitted to exceed the maximum width of 15 percent of the lot width. She said the maximum height for gates was eight feet. Ms. Pesto pointed out that this amendment would allow these provisions to be modified. She explained that there was no maximum height limitation for an accessory structure; however, its height determined the setback from the rear lot line.

Chairman Murphy called the first listed speaker and recited the rules for public testimony.

Referring to the written testimony of William Sansone, the first speaker, Chairman Murphy explained that the *Code of Virginia* allowed one member of the Board of Zoning Appeals (BZA) to sit on the Planning Commission, noting that Commissioner Hart, who would act on this case, was also a member of the BZA. He stated that there was no conflict of interest between Commissioner Hart's roles on the BZA and the Planning Commission.

Wallace Sansone, 1962 Virginia Avenue, McLean, representing the Franklin Area Citizens Association, recommended that the Commission defer decision to investigate the major adverse impacts of lowering the County's zoning standards. He said the BZA had misinterpreted the *Cochran v. Board of Zoning Appeals* ruling, noting that the BZA could properly satisfy variance

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applications under the existing law by acting reasonably. He pointed out that the proposed standards were vague, lacked justification, and were not in harmony with the existing law. He commented that amending the zoning law to accommodate variances through a new special permit process would result in rezoning the entire County. (A copy of his remarks is in the date file.)

In response to a question from Commissioner Alcorn, Mr. Sansone said he was not opposed to the approval process for certain modifications to yard requirements, increases in fence and wall height, or changes to the filing fees. However, he expressed opposition to the subsequent amendments because they could lower the zoning standards based on the Cochran decision.

Raymond Leone, 2045 Rockingham Street, McLean, voiced his objection to the amendment, noting that it would weaken the County's zoning standards and would not provide citizens with the same protections that currently existed under the requirements of the variance law. He pointed out that the Cochran decision did not forbid the BZA from issuing variances. (A copy of his remarks is in the date file.)

Albert Riveros, 6443 Arlington Boulevard, Falls Church, indicated his support for the proposed amendment.

Nicole Correrri, 7963 Arden Court, Dunn Loring, spoke in favor of the amendment because it would allow County citizens to renovate and expand their homes.

Commissioner Alcorn suggested that the citizens who had concerns regarding the provisions of this amendment provide the Commission with examples of what problems might be caused by the proposed modifications.

There were no further speakers, further comments or questions from the Commission, and staff had no closing remarks; therefore, Chairman Murphy closed the public hearing and recognized Commissioner Hart for action on this case. (A verbatim excerpt is in the date file.)

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Commissioner Hart MOVED THAT THE PLANNING COMMISSION DEFER THE DECISION ON THE ZONING ORDINANCE AMENDMENT REGARDING MODIFICATIONS TO THE FENCE AND YARD REQUIREMENTS, TO A DATE CERTAIN OF APRIL 20, 2006, WITH THE RECORD TO REMAIN OPEN FOR WRITTEN COMMENT.

Commissioners Byers and Wilson seconded the motion which carried unanimously with Commissioner Hall absent from the meeting.

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SE 2005-PR-009 - SUNRISE ASSISTED LIVING LIMITED
PARTNERSHIP - Appl. under Sect. 3-204 of the Zoning Ordinance to
permit an independent living facility with 123 units at a density of
16.54 du/ac. Located at 10300 and 10322 Blake La. on approx. 7.44
ac. of land zoned R-2. Tax Map 47-2 ((1)) 66, 67A, and 70A.
PROVIDENCE DISTRICT. PUBLIC HEARING.

Gregory Riegler, Esquire, with McGuire Woods LLP, reaffirmed the affidavit dated February 21, 2006. There were no disclosures by Commission members.

Peter Braham, Zoning Evaluation Division, Department of Planning and Zoning, presented the staff report, a copy of which is in the date file. He noted that staff recommended approval of the application.

Mr. Riegler stated that the proposed elderly housing development would be compatible with the surrounding commercial and residential uses. He indicated that the single-family detached units located to the immediate east and northeast would benefit from the existing vegetative buffers and supplemental plantings. He said the proposal had been improved significantly due to the considerable input provided by the surrounding community. He noted that the application had evolved with four objective measures to address the compatibility issue: building heights, open space preservation, vehicular trips and traffic management, and architectural design and general aesthetics. Mr. Riegler explained that the proposed buildings would be compatible with the surrounding townhouses and the height issues would be mitigated by the substantial setbacks from the property lines. He indicated that the applicant had committed to providing most of the parking underground with a small amount of convenience at grade parking. He said the open space was a signature element of the application, noting that the approximately 60 percent of usable open space would fit properly within the fabric of the community. Mr. Riegler stated that peak hour traffic would be no greater than what would occur with other conventional developments. He noted that the applicant had committed to a Transportation Demand Management Program (TDM) condition, as suggested by Commissioner Lawrence. He explained that the majority of the residents would not typically commute during peak hours, shuttle service to Metro rail and adjacent shopping services would be provided, and the applicant had committed to traffic-calming measures, as reflected in the development conditions. Mr. Riegler said the architectural style would reflect the residential character of the area in terms of the building materials, window types, heights, and design.

In response to a question from Commissioner Lawrence, Mr. Riegler said the proposed building materials would be residential in type, character, and quality and foam trim was advantageous in weight and durability. He indicated that he would provide Commissioner Lawrence with further information.

Chairman Murphy called the first listed speaker and reminded the speakers that the rules for public testimony still applied.

Merle Russ, 3079 McKinnon Way, Oakton, expressed opposition to the application, citing adverse traffic impact on Blake Lane, safety hazards, and deteriorating traffic conditions during peak hours.

Frank Noone, 3044 Barden Oaks Court, Oakton, President of the Barden Oaks Homeowners Association, indicated support for the application. He stated that his homeowners association had executed a written agreement with the applicant to continue working to ensure that concerns were addressed, a copy of which is in the date file. He explained that the applicant had either modified the plans to address concerns or developed mutually agreeable resolutions to issues. Mr. Noone noted that the applicant had agreed to work with the association's board to formalize the referenced agreement to ensure the safety and protection of the homeowners' families and properties. He further expressed support, citing staff's recommendation of approval, compliance with the County ordinances, and the need for more senior living in the County.

Joyce Lentini, 3027 Barden Oaks Court, Oakton, said she would be in favor of the proposal if the applicant agreed to resurface Barden Oaks Court or assist the homeowners with the cost due to drainage from the construction.

Diane Heinz, 2992 Paddock Wood Court, Oakton, Board member of the Oakton Commons Homeowners Association, expressed opposition to the application, citing excessive density, increased traffic on Blake Lane, hazardous traffic conditions on Blake Lane, incompatibility with the surrounding neighborhood, and insufficient infrastructure. (A copy of her remarks is in the date file.)

Lawrence Vogel, 10355 Fitzpatrick Lane, Oakton, President of the Oak Manor Homeowners Association, also opposed the proposed development. His main objections were negative impact on property values, unsafe traffic conditions, inconsistency with the scale of the surrounding neighborhood, increased traffic congestion along Blake Lane, and incompliance with the provisions of the Zoning Ordinance.

Mihail Balasa, 10226 Blake Lane, Oakton, spoke in opposition to the application due to excessive density, incompatibility with the surrounding neighborhood, nonconformance with the Additional Standards for Independent Living Facilities, and inflated construction cost numbers provided by the applicant.

Ann Dominick, 10209 Oakton Station Court, Oakton, also expressed opposition to the proposal, citing nonconformance with the surrounding community and intense height. (A copy of her remarks is in the date file.)

Rafael Garces, 10201 Oakton Drive, Oakton, added his objection to the proposed development due to the lack of compatibility with the surrounding neighborhood and preservation of the existing single-family home on the site. He recommended that Development Condition Number 32 be revised to limit the construction hours from 8:00 a.m. to 6:00 p.m. on weekdays and 9:00 a.m. to 5:00 p.m. on Saturdays and Number 34 be revised to limit the delivery hours from 8:00

a.m. to 6:00 p.m. on weekdays. He further recommended that these conditions provide specific enforcement options and penalty provisions if any violations occurred.

John Barba, 10221 Oakton Drive, Oakton, indicated his opposition to the application, citing noncompliance with Additional Standard Number 4 for Independent Living Facilities and inconsistency with the floor area ratio of the surrounding community.

Michael Tine, 3007 Barden Oaks Court, Oakton, also opposed the proposal due to excessive density. He said if the proposal was approved, the County should impose financial incentives for the applicant to comply with the development conditions and require the applicant to work with the surrounding communities on the plans during and after construction. He recommended the following requirements during construction: the roads, including the private streets, be cleaned daily of construction debris and be returned to their original condition; the construction hours be further reduced; a full-time security guard and contact be provided to note issues and concerns; and the surrounding communities be allowed to approve the tree and shrub cover provided by the applicant. Mr. Tine further recommended the following requirements after construction: the trash, mowing, and delivery hours be further reduced; a reassessment of traffic be conducted one year after completion; a reexamination of the drainage be conducted; and financial penalties be assessed to the applicant if these issues had not been adequately addressed. (A copy of his remarks is in the date file.)

Responding to a question from Commissioner Hart, Mr. Braham explained that Blake Lane served as a drainage divide through this area and had a curb and gutter that ran from Chain Bridge Road to approximately half the length of the subject property. Mr. Tine noted that drainage flowed down from the property onto Barden Oaks Court, which did not have a gutter.

William Ohlhausen, 3085 McKinnon Way, Oakton, spoke in opposition to the application due to increased traffic; hazardous traffic conditions; and absence of a thorough examination of traffic, including projections of the impact on the existing traffic problems.

Rock Reiser, 3025 Barden Oaks Court, Oakton, representing the Community Working Group, expressed support for the proposal, citing the need for an elderly housing development; enhanced character of the community; and the mutual, beneficial use of the community. (A copy of his remarks is in the date file.)

Commissioner Lawrence pointed out that he had received a copy of a letter to Kevin Nelson, with the Virginia Department of Transportation, from the applicant, asking that Blake Lane be reclassified from its present 600 status to a residential road. (A copy of the letter is in the date file.)

Jeannette Miller, 10210 Oakton Station Court, Oakton, voiced her objection to the application, citing noncompliance with the Comprehensive Plan, excessive height and density, and declined character of the community.

Deborah Jones, 3044 Barden Oaks Court, Oakton, suggested that the community resolve their issues with the applicant, citing her concern about the type of development that might be built on the site instead.

There being no further speakers, Chairman Murphy called for a rebuttal statement from Mr. Riegle.

Mr. Riegle explained that the stormwater outfall drained from the property into an existing open channel that flowed into a system located within the drainage easements, which discharged at the proper rate. He indicated that the Department of Public Works and Environmental Services had recommended approval of the system. He addressed the Bardon Oaks Court drainage issue, noting that the applicant's engineers had developed plans to ensure that any water that crossed the divide would be picked up in a manner that would not adversely impact the surrounding community's roads or detention system. Mr. Riegle said this commitment would be memorialized as part of the ongoing effort with the Bardon Oaks Court residents. He stated that the applicant had committed to develop a TDM condition with staff and Commissioner Lawrence to address the traffic concerns, notwithstanding the inherent transportation benefits by the nature of the proposed use. He pointed out that the applicant would also respond to the suggestions made regarding the construction hours and the size of the trees.

Chairman Murphy commented that the construction period would be extended if the construction hours were compressed during the day.

In response to a question from Commissioner Lawrence, Mr. Braham explained that the proposal was consistent and compatible with the surrounding neighborhood due to the following factors: 1) the amount of open space was 59 percent; 2) the screening had been increased by additional plantings along the northern boundary and in the northeastern corner and the amount of tree save had been increased, particularly along the eastern boundary; 3) the height of the buildings maintained a little less than the average grade plan of 50 feet in maximum height; 4) the architecture of the buildings were similar to a townhouse development; and 5) the surrounding neighborhood had various uses and types of housing.

There were no further comments or questions from the Commission and staff had no closing remarks; therefore, Chairman Murphy closed the public hearing and recognized Commissioner Lawrence for action on this case. (A verbatim excerpt is in the date file.)

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Commissioner Lawrence MOVED THAT THE PLANNING COMMISSION DEFER THE DECISION ONLY ON SE 2005-PR-009, SUNRISE ASSISTED LIVING LIMITED PARTNERSHIP, TO A DATE CERTAIN OF MAY 3, 2006, WITH THE RECORD TO REMAIN OPEN FOR WRITTEN COMMENT.

Commissioners Lusk, Alcorn, and Byers seconded the motion which carried unanimously with Commissioners Harsel and Wilson not present for the vote; Commissioner Hall absent from the meeting.

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The Commission went into recess at 11:02 p.m. and reconvened in the Board Auditorium at 11:11 p.m.

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RZ 2005-MV-001/FDP 2005-MV-001 - BROOKFIELD RIDGE ROAD, LLC - Appls. to rezone from R-1 to PDH-2 to permit residential development at a density of 1.82 dwelling units per acre (du/ac) and approval of the conceptual and final development plans. Located S. of Ridge Creek Way, S.E. of its intersection with Shepherd Ridge Ct. on approx. 11.04 ac. of land. Comp. Plan Rec: 2-3 du/ac. Tax Map 89-4 ((1)) 56, 57A, and 69. MOUNT VERNON DISTRICT. PUBLIC HEARING.

Lynne Strobel, Esquire, with Walsh, Colucci, Lubeley, Emrich & Terpak, PC, reaffirmed the affidavit dated February 10, 2006. Commissioner Hart disclosed that his law firm, Hart & Horan, PC, had a pending case with Ms. Strobel's law firm but there was no financial relationship and it would not affect his ability to participate in this case.

Kristen Abrahamson, Zoning Evaluation Division, Department of Planning and Zoning, presented the staff report, a copy of which is in the date file. She noted that staff recommended approval of the applications.

In response to a question from Commissioner Wilson, Ms. Abrahamson and Olawale Ayodeji, Environmental and Site Review Division (ESRD), Department of Public Works and Environmental Services (DPWES), stated that they had not had adequate time to analyze the results of the addendum to the geotechnical report.

Ms. Strobel stated that subsequent to a recommendation of approval by the Planning Commission on October 19, 2005, the Board of Supervisors' public hearing on these applications had been deferred to allow additional time for the applicant to work with the citizens to address their remaining concerns. She said the applicant had submitted revised plans in January 2006, which contained substantive changes from what had been previously approved; therefore, it had been determined that the applications should be reviewed again by the Planning Commission. Ms. Strobel indicated that the primary objection made by the adjacent Middle Valley community was a proposed stormwater management pond to be centrally located on the property, referred to as Option A. She explained that the applicant was now proposing an alternative stormwater management design, Option B, which would initiate low-impact development techniques,

specifically three infiltration trenches and two bioretention facilities to be maintained by the newly created homeowners association. She said at Commissioner Byers' suggestion, an addendum to the geotechnical report had been reviewed by an independent geotechnical engineering firm, Geo-Technology Associates, Inc., which had concluded that the proposal was in accord with standard industry practices. Ms. Strobel compared the two options, noting that the Middle Valley community favored Option B, which would not require a retaining wall and allow for additional buffering. She explained that the applicant was not in favor of a hybrid option because it would require a pond, the replacement of an existing storm drainage pipe, and could cause dam breach issues. She said, however, if Option A was approved, the applicant had proffered to conduct a pre-inspection and a post-inspection of the house that would be affected by the replacement of the pipe. Ms. Strobel noted that the applicant would present these applications before the Environment Committee of the Mount Vernon Council, the Planning and Zoning Committee, and the South County Federation and would also work with those groups during the deferral period. She referred to a typographical error on sheet 7 of the Conceptual Development Plan (CDP)/Final Development Plan, noting that the reference to Notes 2 and 4 would be changed to 8 and 10 in Note Number 26.

Responding to a question from Commissioner Byers, Ms. Strobel said the soil types would allow appropriate percolation and would not cause a possible landslide. Shahzad Moosa, with Engineering & Materials Technologies, Inc., explained that the largest trench was approximately 7,000 square feet in area and seven feet deep and would collect approximately two acres of water and would never fill up, even in a 100-year storm. He noted that only two out of the 19 borings, which were approximately 18 to 20 feet deep, had water in February. He indicated that the area where the water would flow to the infiltration trench would percolate down to the groundwater and according to the four percolation reports that had been conducted last week, the rates were above what had been anticipated, the groundwater would rise only by one and a half inches, and the soil would not be saturated.

Commissioner Wilson pointed out another error on sheet 7 and suggested that "sheet 2" in Note Number 32 be changed to "sheet 8."

In response to a question from Commissioner Wilson, Ms. Strobel stated that if Option B was selected, the interceptor trench would be located along the southern property line and would not need to be shown on the CDP since the clearing limits would not change.

Responding to questions from Commissioner Wilson, Jerry Stonefield, ESRD, DPWES, said Proffer Number 5r exceeded the minimum requirements of the letter to industry. He explained that if the escrow was with Fairfax County, the homeowners association would request the funds from the County to establish a maintenance fund.

Commissioner Wilson suggested that Proffer Number 5k be revised to require the applicant to acquire an easement from the Park Authority to make the outlet improvements on parcel Z. Ms. Strobel agreed with her suggestion.

Commissioner Wilson noted that the proposed pipe needed to be located more than the minimum distance away from the foundation of the existing house on lot 18, as required by the Public Facilities Manual (PFM). Mr. Stonefield replied that he would verify this. Ms. Strobel said the easement document had been reviewed by the County Attorney's Office

In response to a question from Commissioner Wilson, Ms. Strobel stated that the Fire Marshal had required the turnaround area.

Responding to questions from Commissioner Harsel, Ms. Strobel noted that the station of the storm sewer pipe was located between structures 16 and 17, as depicted on the development plan. Ms. Strobel said the applicant would clarify that the public street indicated in Proffer Number 6b referred to the street within the proposed development.

In response to a question from Commissioner Harsel, Mr. Moosa explained that the proposed interceptor trench, a 10-foot hole full of four feet of gravel, rewrapped in fabric and covered with soil, would be used as a precautionary measure to catch any possible underground water flowing down to the adjacent property.

Responding to a question from Chairman Murphy, Willie Woode, with the Northern Virginia Soil and Water Conservation District, said he had forwarded a statement indicating that his questions had been adequately addressed by the applicant to Mount Vernon District Supervisor Gerald Hyland's Office.

In response to a question from Commissioner Hart, Ms. Strobel stated that the applicant would not request a condemnation to acquire or realign an existing easement.

Commissioner Hart recommended that "general consensus" in Proffer Number 5p be changed to "unanimity." Ms. Strobel agreed with his recommendation.

Commissioner Hart further recommended that the applicant consider revising the last sentence of Proffer Number 5p because he said it precluded the applicant from paying for an easement. Ms. Strobel replied that the applicant would consider his recommendation.

Responding to a question from Commissioner Harsel, Ms. Strobel explained that if an existing easement was relocated, the original one would be vacated and the easement right would be reverted back to the property owner so there would no longer be two easements on the property.

Commissioner Wilson suggested that the applicant reexamine other proffers that referred to the applicant not being responsible for the cost of easement relocations. Ms. Strobel agreed with her suggestion.

Chairman Murphy called the first listed speaker and recited the rules for public testimony.

Diana Taylor, 4842 Cherokee Avenue, Alexandria, representing the Known Heirs of Archibald and Patience Hall, reported that the ownership of the Hall/Sutherland Family Cemetery on the subject property was still being disputed. She said all heirs of Archibald Hall and their families had the right to be buried in the cemetery or to convey their lack of interest. Ms. Taylor noted that the applicant had agreed to provide a fenced memorial plot and marker identifying the actual burial area, but had failed to do so. She suggested that the burial sites be protected from further trespass and disturbance. She requested that the Planning Commission not vote on the applications until the issue of ownership had been settled.

Randy Becker, 7513 Candytuft Court, Springfield, spoke in opposition to the proposed plan, noting that outstanding stormwater management, landscaping, open space, tree cover, and trail issues still needed to be addressed by the applicant. He recommended the elimination of five proposed houses along the Middle Valley property boundary to preserve a mature tree line, increase the amount of usable open space, and reduce the stormwater runoff by 25 percent.

Vanessa Genatempo, 7566 Vogels Way, Springfield, pointed out that the Option B plan had not been presented before the Mount Vernon Council of Community Associations or the South County Federation.

Gayle Lennon, 7575 Vogels Way, Springfield, expressed opposition to the proposal because it would have a negative impact on the Middle Valley community and wildlife in the area due to the clear-cutting of trees and excessive density. She said Options A and B did not adequately satisfy the stormwater management issues and expressed concerns that her property would be adversely impacted by groundwater and stormwater levels.

Maryann Conley, 8103 Backlash Court, Springfield, noted that staff and the applicant had answered her questions regarding Option B. She said she had further questions about the soil report, which she had not had the opportunity to review at the present time. She expressed concerns regarding possible seepage onto her property. She noted that the impact would be known if the depth of the bore testing for trench 3 had been at the same elevation of her southern, down-sloping property. Ms. Conley reported that the applicant had informed her that Proffer Number 5e referred to both options and clarified that the proposed storm sewer system belonged to the County and that no roof drains, gutters, or sump pumps would go into the trench.

Sarah Nell Crane, 7586 Vogels Way, Springfield, spoke in opposition to Option A because the foundation of her home would be substantially damaged due to the replacement of the stormwater pipe. She submitted a letter from the applicant detailing the pipe replacement and protection measures for shoring up the trench, a copy of which is in the date file. She requested that the applicant locate the pipe now and inform her of the method that would be used to insure the stability of her home. Ms. Crane also opposed Option B because it would raise the water table and allow excess water to enter her sump pump and basement. She asked what the current water table level was. If either option was approved, she recommended that the applicant include in the proffers substantial information on guarantees to protect her home. She further

recommended that waivers not be approved and the surrounding homeowners, not the applicant, be allowed to choose which option to use. (A copy of her remarks is in the date file.)

Renate Stewart, 7581 Vogels Way, Springfield, said she appreciated the fact that Option B would provide more buffering, but expressed concern that a rain garden would not adequately control stormwater runoff and that the required dam breach analysis would not be conducted until after the plan had been approved. She also expressed concern about stormwater runoff and pointed out that the prevention and maintenance processes of the stormwater management facilities were unknown. Ms. Stewart requested that the decision be deferred to give sufficient time for the Mount Vernon Council of Community Associations, the South County Federation, and the residents to review the proposal and provide input. She recommended that the applicant consider a different or hybrid configuration of stormwater management devices and a reduction in the proposed homes.

Teresa Champion, 8100 Backlash Court, Springfield, President of the Middle Valley Civic Association, noted that she had attached to her remarks a letter from Mr. Woode, stating that he continued to have concerns that needed clarification. She voiced her objection to the applications due to excessive density and insufficient stormwater management. She expressed concern about Proffer Number 17 because it would allow the plan to go forward while the applicant was attempting to address any outstanding offsite agreements. She recommended that Proffer Number 5o be revised to ensure the protection of lot 21 due to increased drainage, noting that negotiation with the homeowner should not be avoided by the applicant paying \$5,000 to the County. Ms. Champion further recommended that the applicant be required to provide the surrounding homeowners with copies of documents and the opportunity to choose their own independent engineer to review Option B. She noted that rain gardens only dealt with water quality and there needed to be further information regarding managing water quantity. She pointed out that the actual water table level was inaccurate due to an unusually dry season and that the trenches proposed by Option B were much closer to the proposed houses than the PFM allowed. She said she had only seen three cross sections and not the six that had been referred to by the applicant. (A copy of her remarks is in the date file.)

Richard Bradley, 7585 Vogels Way, Springfield, also opposed the proposed development. His main objections were deficient engineering, inadequate crossing of the natural drainage divides, increased drainage areas, and delay of proposed plans. He said that staff did not believe that the surrounding homeowners were capable of understanding the plans. (A copy of his remarks is in the date file.)

There being no further speakers, Chairman Murphy called for a rebuttal statement from Ms. Strobel.

Ms. Strobel addressed Ms. Taylor's concerns, noting that she had a copy of the court order that had identified the heirs and said the deed had stated that the property had been conveyed to the entity that had been listed in the affidavit. She stated that the applicant would comply with the agreement in the deed and the proffered condition to provide a fence along the burial area. She

noted that the applicant would revise Proffer Number 5e to clarify that no roof drains, gutters, or sump pumps would go into the trench to address Ms. Conley's concern. Ms. Strobel said the applicant had worked hard to address community concerns and would be willing to pursue Option B. She explained that there had been disbelief and a lack of understanding about technical issues, noting that it was not the responsibility of the applicant or the citizens to decide the development and engineering criteria that needed to be met. She indicated that the proposal complied with the Comprehensive Plan and had been reviewed by County stormwater planning and geotechnical engineers, who had been satisfied with the proposal. She stated that the applicant would address the outstanding issues regarding the proffers and the applications would be presented before the Mount Vernon Council of Community Associations and the South County Federation.

In response to a question from Commissioner Wilson, Ms. Strobel indicated that the proffers would be amended according to which option was approved.

There were no further comments or questions from the Commission and staff had no closing remarks; therefore, Chairman Murphy closed the public hearing and recognized Commissioner Byers for action on this case. (A verbatim excerpt is in the date file.)

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Commissioner Byers MOVED THAT THE PLANNING COMMISSION DEFER THE DECISION ONLY ON RZ 2005-MV-001 AND FDP 2005-MV-001, TO A DATE CERTAIN OF APRIL 27, 2006, WITH THE RECORD REMAINING OPEN FOR WRITTEN COMMENT.

Commissioners Koch and Wilson seconded the motion which carried unanimously with Commissioner Hall absent from the meeting.

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The meeting was adjourned at 12:30 a.m.
Peter F. Murphy, Jr., Chairman
Suzanne F. Harsel, Secretary

Audio and video recordings of this meeting are available at the Planning Commission Office, 12000 Government Center Parkway, Suite 330, Fairfax, Virginia 22035.

Minutes by: Kara A. DeArrastia
Approved on: _____

Linda B. Rodeffer, Clerk to the
Fairfax County Planning Commission